

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(Northern Division)

UNITED STATES OF AMERICA,)
)
and the STATE OF MISSISSIPPI,)
)
Plaintiffs,)

v.)

THE CITY OF JACKSON, MISSISSIPPI,)
)
Defendant.)

Case No. 3:12-cv-790-HTW-LGI
(Clean Water Act Case)

UNITED STATES OF AMERICA,)
)
Plaintiff,)

v.)

THE CITY OF JACKSON, MISSISSIPPI,)
)
Defendant.)

Case No. 3:22-cv-00686-HTW-LGI
(Safe Drinking Water Act Case)

UNITED STATES RESPONSE TO MOTION FOR LEAVE TO INTERVENE
(SAFE DRINKING WATER ACT CASE)

On September 25, 2023, the Mississippi Poor People’s Campaign and the People’s Advocacy Institute (referred collectively herein as “Proposed Intervenor”), through counsel, filed a Motion for Leave to Intervene [Dkt. No. 55], and a proposed Complaint-in-Intervention [Dkt. No. 55-1] in the United States’ Safe Drinking Water Act action against the City of Jackson

[Dkt. No. 1 in Case No. 3:22-cv-00686-HTW-LGI (Safe Drinking Water Act Case), filed Nov. 29, 2022].¹

Pursuant to 42 U.S.C. § 300j-8(b)(1)(B), the United States does not contest that the Proposed Intervenor has a statutory right to intervene under Federal Rule of Civil Procedure 24(a)(1) as to the three claims set forth in the United States' Complaint against the City, which the proposed Complaint-in-Intervention [Dkt. No. 55-1] alleges as "Exceedances of Turbidity Limits," "Failure to Timely Proceed with General Filter Rehabilitation at J.H. Fewell," and "Failure to Install Corrosion Control Treatment" and consents to their intervention as of right to those three claims. Therefore, the United States contends that the Court need not examine the other bases for intervention raised by the Proposed Intervenor because they are moot.²

The United States does not consent to intervention as to any other claims or allegations not asserted in the proposed Complaint-in-Intervention [Dkt. No. 55-1]. Further, the United States incorporates by reference, the September 21, 2023, letter it sent to counsel for the Proposed Intervenor [Dkt. No. 55-4]. As noted therein, the United States reserves its rights to oppose, inter alia, any motions for discovery; motions practice; trial scheduling; and/or any attempts to conduct discovery or seek any other relief against the United States, the State of Mississippi, the Interim Third-Party Manager, or JXN Water. Moreover, the United States reserves

¹ On August 14, 2023, the Safe Drinking Water Act Case, Case No. 3:22-cv-00686-HTW-LGI, was consolidated, for administrative purposes, under the older Clean Water Act Case number, Case No. 3:12-cv-790-HTW-LGI at Dkt. No 45.

² While the United States contends the Court need not consider Proposed Intervenor's arguments for intervention under Fed. R. Civ. P. 24(a)(2) and 24(b)(1)(B), it reserves its rights to contest these alleged bases for intervention. Should the Court be inclined to consider intervention under either of these bases, the United States requests the opportunity to submit a supplemental brief. The United States disagrees with various other statements in the Motion and Complaint but will not address those specifics here.

its right to exercise its discretion in conducting negotiations of any of its claims with the City as we see fit.

Finally, as the Court is aware, this matter is stayed until November 29, 2023 [Dkt. No. 29]. The Proposed Intervenors have requested that the stay be lifted for the limited purpose of consideration of their Motion for Leave to Intervene [Dkt. No. 55 at footnote 1]. The United States takes no position on whether the stay should be lifted for this limited purpose and defers to the Court on that question.

Respectfully submitted,

TODD KIM
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Environment and Natural Resources Division
U.S. Department of Justice

Dated: Oct. 6, 2023

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Dated: Oct. 6, 2023

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